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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIS STEVEN RAY,

Defendant and Appellant.

D056550

(Super. Ct. No. SCE294418)

APPEAL from a judgment of the Superior Court of San Diego County, Peter C. Deddeh, Judge. Affirmed.

Willis Steven Ray entered a negotiated guilty plea to assault by means likely to cause great bodily injury (Pen. Code,¹ § 245, subd. (a)(1)) and admitted he personally inflicted great bodily injury within the meaning of section 12022.7. As part of the plea bargain, the prosecution dismissed the balance of the information. At the change of plea hearing, the trial court indicated it would likely grant probation to Ray.

¹ Statutory references are to the Penal Code.

However, after the probation officer reported that Ray had a juvenile record in Texas which consisted of two separate aggravated sexual assaults, the trial court denied probation and sentenced Ray to five years in prison. The court imposed the low term of two years on the assault count plus a consecutive three-year enhancement for the personal infliction of great bodily injury.

Ray did not obtain a certificate of probable cause.

FACTS

On the night of September 21, 2009, Claudia Bitts invited Ray and his friend, Robert Wallace, to her house. Bitts's fiancé, Kenneth Keck also was there. About midnight, the four of them wanted to go to a bar, but Ray and Wallace did not have identification. Instead, Keck purchased a small bottle of vodka at a liquor store, and the four of them went to the football field of El Cajon High School. After consuming the vodka, the group played simulated football, using the empty vodka bottle as a ball and tackling the person with the bottle.

When tackling Wallace, Bitts accidentally hit him in the groin area, which greatly angered Wallace. Wallace grabbed Bitts's hands and pushed her, causing her hands to hit her face. As Wallace was about to punch Bitts, Keck jumped in front of her and took the punch meant for Bitts. Wallace's punch broke Keck's nose. Keck fell to the ground and

was repeatedly punched and kicked by Wallace and Ray.² During this assault, Keck's arm was broken. Keck required surgery on his arm.

DISCUSSION

Appointed appellate counsel has filed a brief setting forth the evidence in the superior court. Counsel presents no argument for reversal but asks that this court review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible but not arguable issues: (1) whether Ray's guilty plea was constitutionally valid; (2) whether Ray was properly advised of his the consequences of pleading guilty and waived his rights before pleading guilty; and (3) whether Ray's sentence complied with the plea bargain and whether the trial court abused its discretion in imposing a prison term.

We granted Ray permission to file a brief on his own behalf. He has not responded.

A review of the entire record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, including the possible issues referred to pursuant to *Anders v. California, supra*, 386 U.S. 738, has disclosed no other reasonably arguable appellate issue. Competent counsel has represented Ray on this appeal.

² Codefendant Wallace is not a party to this appeal.

DISPOSITION

The judgment is affirmed.

McCONNELL, P. J.

WE CONCUR:

NARES, J.

McDONALD, J.